



Office of the Attorney General
State of Texas

August 7, 1992

DAN MORALES
ATTORNEY GENERAL

Mr. Todd K. Brown
Acting Executive Director
Texas Workers' Compensation Commission
Southfield Building
4000 South IH-35
Austin, Texas 78704

OR92-339

Dear Mr. Brown:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16502.

You have received two requests for information relating to a State Bar Grievance Committee hearing and the termination of a Texas Workers' Compensation Commission employee. Specifically, the requestor seeks records which reflect the terminated employee's misconduct, an investigation of her alleged misconduct, interviews, personnel records, and other documents relating to the employee's termination. You advise us that some of the requested information has been made available to the requestor. You claim, however, that the remaining information is excepted by required public disclosure by sections 3(a)(1), 3(a)(3), 3(a)(7), 3(a)(8), and 3(a)(11) of the Open Records Act.

Previous open records decisions issued by this office resolve your request. Section 3(a)(3) excepts

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

Section 3(a)(3) applies only when litigation in a specific matter is pending or reasonably anticipated and only to information clearly relevant to that litigation. Open Records Decision No. 551 (1990). "Whether litigation is reasonably anticipated must be determined on a case-by-case basis." Open Records Decision No. 452 (1986) at 4.

The commission has received a letter in which the requestor threatens to file a complaint with the Texas Human Rights Commission, the Equal Employment Opportunity Commission, and the Fort Worth Human Relations Commission and claims damages resulting from alleged sexual harassment. You have submitted the letter for our review. On the basis of this letter, we conclude that litigation may be reasonably anticipated. Having examined the documents submitted to us for review, we further conclude that the requested information relates to the anticipated litigation and may be withheld from required public disclosure under section 3(a)(3) of the Open Records Act. Please note that this ruling applies only for the duration of the litigation and to the documents at issue here. As we resolve this matter under section 3(a)(3), we need not address the applicability of sections 3(a)(1), 3(a)(7), 3(a)(8), and 3(a)(11) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-339.

Yours very truly,

A handwritten signature in dark ink, appearing to read 'William Walker', is written over a horizontal line.

William Walker
Assistant Attorney General
Opinion Committee

WW/GCK/lmm

Ref.: ID# 16502
ID# 16640

cc: Ms. Linda Anne Thomson
7304 Old Mill Run
Fort Worth, Texas 76133